

SENATE, No. 1995

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 5, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Clarifies that crimes of trespassing and invasion of privacy also include use of unmanned aircraft systems.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unmanned aircraft systems and amending
2 P.L.2003, c.206, N.J.S.2C:18-3, and P.L.2017, c.315.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.2003, c.206 (C.2C:14-9) is amended to read
8 as follows:

9 1. a. An actor commits a crime of the fourth degree if,
10 knowing that he is not licensed or privileged to do so, and under
11 circumstances in which a reasonable person would know that
12 another may expose intimate parts or may engage in sexual
13 penetration or sexual contact, he observes or operates an unmanned
14 aircraft system for the purpose of observing another person without
15 that person's consent and under circumstances in which a reasonable
16 person would not expect to be observed.

17 b. (1) An actor commits a crime of the third degree if,
18 knowing that he is not licensed or privileged to do so, he
19 photographs, films, videotapes, records, or otherwise reproduces or
20 operates an unmanned aircraft system for the purpose of
21 photographing, filming, videotaping, recording, or otherwise
22 reproducing in any manner, the image of another person whose
23 intimate parts are exposed or who is engaged in an act of sexual
24 penetration or sexual contact, without that person's consent and
25 under circumstances in which a reasonable person would not expect
26 to be observed.

27 (2) An actor commits a crime of the fourth degree if, knowing
28 that he is not licensed or privileged to do so, he photographs, films,
29 videotapes, records, or otherwise reproduces or operates an
30 unmanned aircraft system for the purpose of photographing,
31 filming, videotaping, recording, or otherwise reproducing in any
32 manner, the image of the undergarment-clad intimate parts of
33 another person, without that person's consent and under
34 circumstances in which a reasonable person would not expect to
35 have his undergarment-clad intimate parts observed.

36 c. An actor commits a crime of the third degree if, knowing
37 that he is not licensed or privileged to do so, he discloses any
38 photograph, film, videotape, recording or any other reproduction of
39 the image, taken in violation of subsection b. of this section, of: (1)
40 another person who is engaged in an act of sexual penetration or
41 sexual contact; (2) another person whose intimate parts are exposed;
42 or (3) another person's undergarment-clad intimate parts, unless that
43 person has consented to such disclosure.

44 For purposes of this subsection: (1) "disclose" means sell,
45 manufacture, give, provide, lend, trade, mail, deliver, transfer,

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 publish, distribute, circulate, disseminate, present, exhibit,
2 advertise, offer, share, or make available via the Internet or by any
3 other means, whether for pecuniary gain or not; and (2) "intimate
4 parts" has the meaning ascribed to it in N.J.S.2C:14-1.
5 Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a
6 fine not to exceed \$30,000 may be imposed for a violation of this
7 subsection.

8 d. It is an affirmative defense to a crime under this section that:

9 (1) the actor posted or otherwise provided prior notice to the
10 person of the actor's intent to engage in the conduct specified in
11 subsection a., b., or c., and

12 (2) the actor acted with a lawful purpose.

13 e. (1) It shall not be a violation of subsection a. or b. to
14 observe another person in the access way, foyer or entrance to a
15 fitting room or dressing room operated by a retail establishment or
16 to photograph, film, videotape, record or otherwise reproduce the
17 image of such person, if the actor conspicuously posts at the
18 entrance to the fitting room or dressing room prior notice of his
19 intent to make the observations, photographs, films, videotapes,
20 recordings or other reproductions.

21 (2) It shall be a violation of subsection c. to disclose in any
22 manner any such photograph, film, videotape or recording of
23 another person using a fitting room or dressing room except under
24 the following circumstances:

25 (a) to law enforcement officers in connection with a criminal
26 prosecution;

27 (b) pursuant to subpoena or court order for use in a legal
28 proceeding; or

29 (c) to a co-worker, manager or supervisor acting within the
30 scope of his employment.

31 f. It shall be a violation of subsection a. or b. to observe
32 another person in a private dressing stall of a fitting room or
33 dressing room operated by a retail establishment or to photograph,
34 film, videotape, record or otherwise reproduce the image of another
35 person in a private dressing stall of a fitting room or dressing room.

36 g. For purposes of this act, a law enforcement officer, or a
37 corrections officer or guard in a correctional facility or jail, who is
38 engaged in the official performance of his duties shall be deemed to
39 be licensed or privileged to make and to disclose observations,
40 photographs, films, videotapes, recordings or any other
41 reproductions.

42 h. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
43 provisions of law, a conviction arising under subsection b. of this
44 section shall not merge with a conviction under subsection c. of this
45 section, nor shall a conviction under subsection c. merge with a
46 conviction under subsection b.

1 As used in this act:

2 "Operate" means to fly, control, direct, or program the flight of
3 an unmanned aircraft system.

4 "Unmanned aircraft" means an aircraft that is operated without
5 the possibility of direct human intervention from within or on the
6 aircraft.

7 "Unmanned aircraft system" means an unmanned aircraft and
8 associated elements, including communication links and the
9 components that control the unmanned aircraft, that are required for
10 the pilot in command to operate safely and efficiently.

11 (cf: P.L.2016, c.2, s.1)

12

13 2. N.J.S.2C:18-3 is amended to read as follows:

14 2C:18-3. a. Unlicensed entry of structures. A person commits
15 an offense if, knowing that he is not licensed or privileged to do so,
16 he enters or surreptitiously remains in or causes an unmanned
17 aircraft system to enter or surreptitiously remain over any research
18 facility, structure, or separately secured or occupied portion thereof,
19 or in **【or】**, upon , or over utility company property, or in or over the
20 sterile area or operational area of an airport. An offense under this
21 subsection is a crime of the fourth degree if it is committed in a
22 school or on or over school property. The offense is a crime of the
23 fourth degree if it is committed in or over a dwelling. An offense
24 under this section is a crime of the fourth degree if it is committed
25 in or over a research facility, power generation facility, waste
26 treatment facility, public sewage facility, water treatment facility,
27 public water facility, nuclear electric generating plant or any facility
28 which stores, generates or handles any hazardous chemical or
29 chemical compounds. An offense under this subsection is a crime of
30 the fourth degree if it is committed in **【or】**, upon , or over utility
31 company property. An offense under this subsection is a crime of
32 the fourth degree if it is committed in or over the sterile area or
33 operational area of an airport. Otherwise it is a disorderly persons
34 offense.

35 b. Defiant trespasser. A person commits a petty disorderly
36 persons offense if, knowing that he is not licensed or privileged to
37 do so, he enters or remains in or causes an unmanned aircraft
38 system to enter or remain over any place as to which notice against
39 trespass is given by:

40 (1) Actual communication to the actor; or

41 (2) Posting in a manner prescribed by law or reasonably likely
42 to come to the attention of intruders; or

43 (3) Fencing or other enclosure manifestly designed to exclude
44 intruders.

45 c. Peering into windows or other openings of dwelling places.
46 A person commits a crime of the fourth degree if, knowing that he
47 is not licensed or privileged to do so, he peers into or uses an
48 unmanned aircraft system or other device to peer into a window or

1 other opening of a dwelling or other structure adapted for overnight
2 accommodation for the purpose of invading the privacy of another
3 person and under circumstances in which a reasonable person in the
4 dwelling or other structure would not expect to be observed.

5 d. Defenses. It is an affirmative defense to prosecution under
6 this section that:

7 (1) A structure involved in an offense under subsection a. was
8 abandoned;

9 (2) The structure was at the time open to members of the public
10 and the actor complied with all lawful conditions imposed on access
11 to or remaining in the structure; **[or]**

12 (3) The actor reasonably believed that the owner of the
13 structure, or other person empowered to license access thereto,
14 would have licensed him to enter or remain, or, in the case of
15 subsection c. of this section, to peer ; or

16 (4) (a) An unmanned aircraft system was used to commit the
17 act;

18 (b) The person was operating the unmanned aircraft system for
19 legitimate commercial or educational purposes in a manner
20 consistent with applicable Federal Aviation Administration rules,
21 exemptions, or other authorizations; and

22 (c) The act committed was solely incidental to the lawful
23 commercial or educational use of the unmanned aircraft system.

24 As used in this section:

25 "Operate" means to fly, control, direct, or program the flight of
26 an unmanned aircraft system.

27 "Unmanned aircraft" means an aircraft that is operated without
28 the possibility of direct human intervention from within or on the
29 aircraft.

30 "Unmanned aircraft system" means an unmanned aircraft and
31 associated elements, including communication links and the
32 components that control the unmanned aircraft, that are required for
33 the pilot in command to operate safely and efficiently.

34 (cf: P.L.2013, c.138, s.2)

35
36 3. Section 1 of P.L.2017, c.315 (C.2C:40-27) is amended to
37 read as follows:

38 1. a. As used in this act:

39 "Operate" means to fly, control, direct, or program the flight of
40 an unmanned aircraft system.

41 "Unmanned aircraft" means an aircraft that is operated without
42 the possibility of direct human intervention from within or on the
43 aircraft.

44 "Unmanned aircraft system" means an unmanned aircraft and
45 associated elements, including communication links and the
46 components that control the unmanned aircraft, that are required for
47 the pilot in command to operate safely and efficiently.

The bill also expands the affirmative defenses available to a person accused of trespass to include a person: (1) who used an unmanned aircraft system to commit the act; (2) was operating the unmanned aircraft system for legitimate commercial or educational purposes in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations; and (3) the act was solely incidental to the lawful commercial or educational use of the unmanned aircraft system.

1 In addition, the bill defines “operate” to mean to fly, control,
2 direct, or program the flight of an unmanned aircraft system.
3 “Unmanned aircraft” is defined as an aircraft that is operated
4 without the possibility of direct human intervention from within or
5 on the aircraft. “Unmanned aircraft system” is defined under the bill
6 to mean an unmanned aircraft and associated elements, including
7 communication links and the components that control the unmanned
8 aircraft, that are required for the pilot in command to operate safely
9 and efficiently.